

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION**

MAUREEN TOTH,  
Plaintiff,

v.

CAUSE NO.: 2:21-CV-209-TLS-JPK

UNITED STATES MARSHALS SERVICE  
and UNITED STATES OF AMERICA,  
Defendants.

**OPINION AND ORDER**

This matter is before the Court on a Motion to Dismiss - United States Marshal Service [ECF No. 11], filed on September 10, 2021. The Plaintiff seeks to dismiss her claims against Defendant United States Marshals Service pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

The Seventh Circuit Court of Appeals has held that the proper procedure for dismissal of individual parties or claims is by the amendment of pleadings under Federal Rule of Civil Procedure 15(a) and not by dismissal under Federal Rule of Civil Procedure 41(a). *Taylor v. Brown*, 787 F.3d 851, 857–58, 858 n.9 (7th Cir. 2015) (explaining that “Rule 15(a) allows a plaintiff to amend his complaint—including by adding or dropping parties and claims—as a matter of right in some situations and by court order in others” and reminding district courts to use Rule 15(a) rather than Rule 41(a) for dismissal of individual claims); *see also* 6 Fed. Prac. & Proc. Civ. § 1479 (3d ed.).

Accordingly, the Court DENIES the Motion to Dismiss - United States Marshal Service [ECF No. 11]. Pursuant to Federal Rule of Civil Procedure 15(a)(2), the Court GRANTS the Plaintiff leave to file, on or before October 4, 2021, an amended complaint against Defendant United States of America in order to drop Defendant United States Marshals Service as a party.

SO ORDERED on September 15, 2021.

s/ Theresa L. Springmann  
JUDGE THERESA L. SPRINGMANN  
UNITED STATES DISTRICT COURT